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NTSB Order No. EA-5189

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 18th day of November, 2005

MARION C. BLAKEY, Administrator, Federal Aviation Administration, Complainant, v. VERNON LANE HAMPTON, Respondent.	)	Docket No. SE-17143

OPINION AND ORDER

Respondent and the Administrator have both appealed from the oral initial decision of Administrative Law Judge William R. Mullins in this matter,[1] issued following an evidentiary hearing held on December 14, 2004. The Administrator's order suspended

[1] A copy of the initial decision, an excerpt from the hearing transcript, is attached.

respondent's mechanic's certificate for 60 days,[2] based on alleged violations of 14 C.F.R. §§ 43.9[3] and 43.13(a).[4] The law judge found respondent had violated § 43.9, but rejected the Administrator's conclusion that respondent had violated

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[2] In addition to the mechanic's certificate with airframe and powerplant privileges, respondent holds an inspection authorization and private pilot certificates.

[3] Title 14 C.F.R. § 43.9(a) provides:

> (a) *Maintenance record entries.* Except as provided in paragraphs (b) and (c) of this section, each person who maintains, performs preventive maintenance, rebuilds, or alters an aircraft, airframe, aircraft engine, propeller, appliance, or component part shall make an entry in the maintenance record of that equipment containing the following information:
>
> (1) A description (or reference to data acceptable to the Administrator) of the work performed.
>
> (2) The date of completion of the work performed.
>
> (3) The name of the person performing the work if other than the person specified in paragraph (a)(4) of this section.
>
> (4) If the work performed on the aircraft, airframe, aircraft engine, propeller, appliance, or component part has been performed satisfactorily, the signature, certificate number, and kind of certificate held by the person approving the work. The signature constitutes the approval for return to service only for the work performed.

[4] The applicable portion of 14 C.F.R. § 43.13(a) states:

> (a) Each person performing maintenance, alteration, or preventive maintenance on an aircraft, engine, propeller, or appliance shall use the methods, techniques, and practices prescribed in the current manufacturer's maintenance manual or Instructions for Continued Airworthiness prepared by its manufacturer, or other methods, techniques, and practices acceptable to the Administrator....

§ 43.13(a), and reduced the suspension of respondent's mechanic's certificate from 60 days to 15 days. We deny respondent's appeal and grant the Administrator's appeal.

The Administrator's June 25, 2004 order, which served as the complaint before the law judge, alleged the following:

1. You hold airman Mechanic Certificate, No. 431417955, with Airframe and Powerplant ratings.

2. On or about November 12, 2003, you performed maintenance on a Cessna, model 310, civil aircraft, U.S. registration number N4183Q, and approved it for return to service.

3. In addition to other repairs, you removed, opened, and repaired the landing gear actuator box.

4. The maintenance on the landing gear actuator box addressed in paragraph 3 consisted of removal of the top of the gearbox, removal of a broken internal stop, installation of the internal stop with one from a serviceable gearbox and reinstalled the top and three attach bolts.

5. At the time you performed the maintenance addressed in paragraph 4, you failed to use methods, techniques, and practices prescribed in the current manufacturer's maintenance manual or Instructions for Continued Airworthiness prepared by its manufacturer or other methods, techniques, and practices acceptable to the Administrator.

6. At the time you performed the maintenance addressed in paragraph 4, you failed to make an entry in the maintenance record of that equipment.

The Administrator's order arose out of a gear-up landing of a Cessna 310, N4183Q, which occurred in August 2003. After the gear-up landing, the aircraft's owner delivered the aircraft to

respondent's company, Hampton Enterprises,[5] for repair. In the course of inspection and repair of the aircraft, an employee at Hampton Enterprises[6] removed the cover of the landing gear actuator box to inspect the inside of the gearbox for damage. During the inspection, the employee noticed that a stop pin within the gearbox was sheared. He replaced the damaged pin with a pin from a serviceable gearbox. Respondent inspected the work and signed an aircraft log and maintenance record entry that included the statement, "[i]nspected landing gear actuator gearbox and serviced." Exhibit A-7 at 2.

Mr. Hampton's appeal. Respondent appeals the law judge's conclusion that he violated § 43.9 by failing to make an adequate entry in the maintenance record for the aircraft. Respondent argues that his entry in the logbook, combined with the work cards containing more details regarding the work that was completed on the gearbox,[7] suffices as an adequate description of the work as required by § 43.9(a)(1). Respondent

[5] Respondent's company had previously done maintenance on the aircraft. The Administrator did not allege that respondent's earlier work on the aircraft had caused the aforementioned gear-up landing. Transcript (Tr.) 42.

[6] The employee who completed the work in question does not hold a mechanic's certificate from the FAA. Respondent oversaw the employee's work on the aircraft.

[7] Respondent produced a multi-page handwritten document that included an entry indicating that an internal stop pin was found broken and replaced with a stop pin from another gearbox. Exhibit R-3 at 7.

further argues that he keeps such detailed work cards on file in the office of his repair shop, and that such files are available to aviation inspectors or other interested parties, upon request.

In the instant appeal, respondent argues that the law judge erred in, "[not recognizing] that the aircraft maintenance records consist of more than the aircraft logbook." Respondent's Appeal Brief at 9-10. Respondent cites FAA Advisory Circular 65-9A, Airframe and Powerplant Mechanics General Handbook (reprinted Mar. 31, 1999), for the notion that the Administrator defines "aircraft logs" as follows: "the supplemental records together with the logbook, constitute the maintenance records." Respondent's Appeal Brief at 10.

We agree that work cards and other supplemental maintenance records might properly be relied upon as providing the required description of work under § 43.9(a)(1) if such records are properly referenced in the maintenance entry. See Administrator v. Scott, NTSB Order No. EA-4030 (1993) at 2. However, in this case, the work cards describing the pin replacement were not referenced in respondent's maintenance entry, and the statement that the gearbox was "serviced" provided insufficient detail of

what was done.[8] Indeed, respondent appears to concede that the maintenance log entry should have mentioned the pin replacement, calling it an "oversight" and an "honest mistake." Exhibit A-6 at 2. Therefore, respondent's appeal on this issue is denied, and the violation of § 43.9(a)(1) is affirmed.

The Administrator's appeal. The Administrator appeals the law judge's finding that respondent did not violate § 43.13(a) by failing to use acceptable methods, techniques, and practices outlined in the Cessna 310 maintenance manual, Instructions for Continued Airworthiness, or other methods acceptable to the

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[8] The Administrator cites Administrator v. Reeves Aviation, Inc., 6 N.T.S.B. 96 (1988), where the Board reversed the law judge's decision that respondent's description in the maintenance record, which stated that respondent simply "repaired" certain items, was adequate. The Board disagreed with the law judge's conclusion, and held that more details were necessary:

> In the Board's judgment, the detail in the write-up of a discrepancy does not necessarily tell the reader what was done where the only descriptive word included in the corrective action is "Repaired." For example, if the item in question is changed (e.g. "replace bulb") or if the system is operationally checked and found to operate normally, then that information should be set forth. Such information would satisfy the intent of the regulation ("a description of work performed"), based on a reasonable construction, and would tell anyone perusing the records what was done to correct the problem, information which would have considerable significance if the problem recurs and the effectiveness of past corrective action must be evaluated.

Id. at 98.

Administrator. The Administrator's appeal stems from the law judge's conclusion that the gearbox was opened "pursuant to proper inspection technique" and that, "no manuals or advisory circulars about inspecting landing gear and boxes and actuator motors ... govern the way that [repairs should be performed]." Tr. 160. The Administrator argues that, while the Cessna maintenance manual is indeed silent on the inspection and repair of sector stop pins within the gearbox, the maintenance manual clearly states that, "[d]isassembly of the landing gear actuator assembly or reduction unit for repairs is not recommended," and that the landing gear actuator, "may be disassembled to lubricate gears only." Cessna Service Manual, Exhibit A-8 at 2.[9] Therefore, the Administrator contends that respondent's replacement of the stop pin within the gearbox with a pin taken from another gearbox was contrary to acceptable methods, techniques, and practices.

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[9] Within the Cessna maintenance manual's "repair and servicing" subsection under "Landing Gear Actuator," the Manual provides the following:

> c. Repair and servicing.
>
> 1. Refer to Lubrication Diagram, figure 2-9, and service components as shown.
> 2. Disassembly of the landing gear actuator assembly or reduction unit for repairs is not recommended.
>
> NOTE: Landing gear actuator may be disassembled to lubricate gears only.

In response to the Administrator's appeal, respondent argues that his replacement of a stop pin in the landing gear actuator is a task too simple and obvious to include in the manufacturer's maintenance manual, or to require prior approval from the Administrator. Respondent cites Advisory Circular 43.13-1B, Acceptable Methods, Techniques, and Practices - Aircraft Inspection and Repair (Sept. 8, 1998), which recommends inspection of landing gear actuators, and contends that neither the Advisory Circular nor the Cessna maintenance manual include instructions on replacing a stop pin because, "[i]t would seem meaningless to inspect and not replace parts that are damaged or worn," and because, "[t]he task of opening the landing gear actuator gear box is simple in that a wrench and socket wrench, common tools for a mechanic, are sufficient for separating the two halves of the gear box. Once separated the replacement of the stop pin is an equally simple task." Respondent's Reply Brief at 2.

Section 43.13(a) clearly precludes those holding mechanic's certificates from overlooking the provisions of maintenance manuals. Mechanics must, "use the methods, techniques, and practices prescribed in the current manufacturer's maintenance manual or Instructions for Continued Airworthiness prepared by its manufacturer." 14 C.F.R. § 43.13(a). Despite the language

of § 43.13(a), respondent essentially asks the Board to bypass the language in Cessna's maintenance manual that cautions against disassembling the landing gear actuator for any sort of repair. Where the maintenance manual is silent on a particular issue, the mechanic should seek approval from the Administrator regarding how to address that issue.[10] Moreover, the Board is bound by the Administrator's reasonable interpretation of FAA regulations. 49 U.S.C. 44709(d)(3); Garvey v. NTSB, 190 F.3d 571, 576-79 (D.C. Cir. 1999) (holding that the Board must defer to the FAA even when the FAA sets forth its position in a litigation statement made by FAA counsel).

Overall, in spite of the maintenance manual's limitation on disassembling the landing gear actuator (i.e., it is permitted only for the purpose of lubricating the gears), respondent nevertheless disassembled the actuator box and replaced a stop pin therein. Respondent did not seek prior approval from the Administrator regarding such a repair. Therefore, respondent has violated § 43.13(a).[11] We reverse the law judge's finding on this issue.[12]

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[10] See Administrator v. Anderson, NTSB Order No. EA-3562 at 1—2 (1992); see also Tr. 23—24, where the FAA's airworthiness inspector testified regarding the method for obtaining field approval through FAA Form 337.

[11] Although the Administrator, respondent, and the law judge discussed the potential relevancy of provisions in the Cessna

The Administrator cited the FAA's Enforcement Sanction Guidance Table in recommending a 60-day suspension of respondent's mechanic certificate. Tr. 36. According to the Sanction Guidance Table, the Administrator could have recommended a suspension up to 30 days for the § 43.9(a) violation, and up to 120 days for the § 43.13(a) violation. FAA Order 2150.3A, Appendix 4. At the administrative hearing, the aviation safety inspector who recommended the 60-day sanction stated that he had considered the fact that respondent had no history of prior enforcement problems, as well as the fact that the replacement of the stop pin contrary to the Cessna 310 maintenance manual raised serious safety concerns. Tr. 36. Considering these factors, we find the Administrator's original 60-day suspension period appropriate.

The Board finds that safety in air commerce or air transportation and the public interest requires the affirmation

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(continued)
Overhaul/Parts Manual that address overhauling the landing gear actuator, the Board does not reach the issue of whether the Overhaul/Parts Manual applies in this case. Respondent's disassembly of the landing gear actuator contradicted the Cessna 310 service manual, obviating the need to determine the relevancy of the Overhaul/Parts Manual.

[12] Even the law judge recognized that respondent's work on the gearbox went beyond mere servicing activities (such as lubricating the gears), when he noted that, "there needs to be some suggestion in there that there was something done to this box – gear actuator box besides just servicing it." Tr. 161.

of the Administrator's Order of Suspension and the reversal of the law judge's conclusion that respondent did not violate § 43.13(a).

ACCORDINGLY, IT IS ORDERED THAT:

1. Respondent's appeal is denied;

2. The Administrator's appeal is granted; and

3. The 60-day suspension of respondent's mechanic certificate shall begin 30 days after the service date indicated on this opinion and order.[13]

ROSENKER, Acting Chairman, and ENGLEMAN CONNERS and HERSMAN, Members of the Board, concurred in the above opinion and order.

[13] For the purpose of this order, respondent must physically surrender his certificate to a representative of the Federal Aviation Administration pursuant to 14 C.F.R. § 61.19(g).